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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,118	05/19/2006	Bhanu Prakash Kirgaval Nagaraja Rao	L2005 0022/P022	7431
24998	7590	11/16/2009		
DICKSTEIN SHAPIRO LLP			EXAMINER	
1825 EYE STREET NW			BITAR, NANCY	
Washington, DC 20006-5403				
			ART UNIT	PAPER NUMBER
			2624	
			MAIL DATE	DELIVERY MODE
			11/16/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/580,118

**Applicant(s)**

NAGARAJA RAO ET AL.

**Examiner**

NANCY BITAR

**Art Unit**

2624

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 4-13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Nancy Bitar/  
Examiner, Art Unit 2624

/Wes Tucker/  
Primary Examiner, Art Unit 2624

Continuation of 11, does NOT place the application in condition for allowance because: 4. Applicant argues that Verard does not disclose or suggest either feature (i) or feature (ii) of claim 4. Verard discloses that the positions of the PC and AC landmarks are found using a step-by-step procedure performed on a midsagittal image (Verard, Fig. 2(b) caption). Moreover, Verard only teaches steps which operate on a midsagittal image and does not teach or suggest using the coarse localization of the PC to generate one or more axial or coronal radiological images. Moreover, Sun (in particular Fig. 3 and the caption cited by the Examiner), the axial and coronal slices of AC and PC are only used for labeling with the help of Talairach's atlas, and are not used to improve the estimated position of the AC or the PC landmark. Indeed, Sun does not disclose or suggest that the axial and coronal slices can be used to improve the estimated positions of the AC or PC landmarks.

In response, Verard teaches a fully automated identification of AC and PC landmarks in the brain using MRI where the method includes the step of taking midsagittal image of the brain and setting an initial threshold of the pixel intensity, and then iteratively modifying threshold levels until successful identification of brain structures such as the AC and PC (page 613 column 2 lines 5-19 and page 614 column 2 lines 6 to page 615 column 1 line 24). Sun clearly teaches the deficiency of Verard where the automatic method of finding the anterior commissure (AC) and posterior commissure (PC) by estimating the position of midsagittal radiological images and generating axial radiological images and analyzing these to improve the estimate of the position of the landmark (figure 3 and caption). Therefore feature (ii) of claim 4 has been addressed by SUN et al. Additionally the applicant's argument that the combination of all the features recited in claims 4-13 makes the applicant's invention patentable different is not found persuasive. verard teaches the step of taking a midsagittal image of the brain and setting an initial threshold of the pixel intensity and then iteratively modifying thresholds levels until successful identification of brain structures such as the AC and PC ( see page 613 column 2 lines 5 to 19 and page 614 column 2 line 6 to page 615 column 1 line 24).